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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EPHRAIM FEIG

Appeal 2009-013110
Application 09/750,577
Technology Center 2100

Before ROBERT M. NAPPI, KRISTEN L. DROESCH and
JEFFREY S. SMITH, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant seeks review under 35 U.S.C. § 134(a) of a final rejection of claims 1-3, 5-7, 16-18, 20-22, 30 and 31¹. We have jurisdiction under 35 U.S.C. § 6(b). We REVERSE.

BACKGROUND

Appellant's invention is related to a system and method for viewing, embedding, providing security for, and deleting target files referred to by referring documents. Spec. p. 1, ll. 4-7.

Claim 1 is illustrative and reproduced below:

A method of managing target documents referred to by referring documents, comprising the steps of:

identifying one or more referring documents in a network, each of the one or more referring documents associated with a user on the network and having one or more hypertext links, each hypertext link pointing to a target document stored in a storage;

determining when a user deletes one or more referring documents associated with the user; and

enabling removal of a target document from the storage when one or more hypertext links pointing to the target document cease to exist.

The Examiner relies on the following prior art:

Hug	5,806,078	Sep. 8, 1998
Meyerzon	6,638,314 B1	Oct. 28, 2003
Andrew Birrell, <i>Distributed Garbage Collection for Network Objects</i> , December 15, 1993. ("Birrell")		

¹ Claims 4, 8-15, 19 and 23-29 have been cancelled.

Bill Venners, *Java's garbage-collected heap: An introduction to the garbage-collected heap of the Java virtual machine*, August 1996, http://www.javaworld.com/javaworld/jw-08-1996/jw-08-gc_p.html. (“Venners”)

Claims 1-3, 5, 6, 16-18, 20, 21, 30 and 31 are rejected under 35 U.S.C. § 103(a) as unpatentable over Venners, Meyerzon and Birrell.

Claims 7 and 22 are rejected under 35 U.S.C. § 103(a) as unpatentable over Venners, Meyerzon, Birrell and Hug.

ISSUE

Did the Examiner incorrectly determine that the combination of Venners, Meyerzon and Birrell renders obvious the claimed invention?

FINDINGS OF FACT (“FF”)

Venners

1. Venners describes a known garbage collection strategy which includes maintaining a reference count for each object. P. 3, ¶ 1 under heading “Reference counting collectors”.

2. When an object is first created its reference count is set to one. *Id.*

3. When any other object or root is assigned a reference to that object, the object count is incremented. *Id.*

4. When a reference to an object goes out of scope or is assigned a new value, the object’s count is decremented. *Id.*

5. When an object has a reference count of zero, it can be garbage collected. *Id.*

ANALYSIS

We have reviewed the Examiner's rejection in light Appellant's arguments in the Brief that the Examiner has erred. We concur with Appellant's assertion that the Examiner erred.

Independent claim 1 recites: "each of the one or more referring documents associated with a user on the network . . ." and "determining when a user deletes one or more referring documents associated with the user" Independent claim 16² recites nearly identical limitations. The Examiner finds that Venners' meets the disputed claim limitations and directs attention to Venners' description of object data that has an associated reference count. Ans. 9 (citing p. 3). The Examiner explains that "[w]hen the object is initially created, the count is set to one, and each time a user (another object or root) references the object, the count is incremented (page 3)." Ans. 9. The Examiner further explains that "[w]hen the user is no longer referencing the object, the count is decremented (pages 3-4)." Ans. 9.

Appellant argues that the combination of Venners, Meyerzon and Birrell fails to describe each of the one or more referring documents being associated with a user, as well as detecting user deletion of a reference document associated with that user, as required by claim 1. Br. 7-8. Appellant specifically argues that: 1) Venners discloses garbage detection algorithms for Java objects and does not disclose anything regarding documents in a network associated with users on the network; and 2) neither Meyerzon nor Birrell remedy the deficiencies of Venners. Br. 8.

² The word "when" is inadvertently omitted from claim 16 in the Appeal Brief Claims Appendix.

We agree. The Examiner does not direct us to, and we cannot find, where Venners or the combination of Venners, Meyerzon and Birrell describes identifying one or more references with each of the one or more references being associated with a user (e.g., a computer, a server, a processor, application program, etc.), and determining when a user (e.g., a computer, a server, a processor, application program, etc.) deletes one or more references that is associated with the user (e.g., a computer, a server, a processor, application program, etc.). At best, Venners describes a known garbage collection strategy that maintains a reference count for each object and sets the count to one when the object is first created; increments the count when any other object or root is assigned a reference to that object; and decrements the count when a reference to an object goes out of scope or is assigned a new value. FFs 1-4. When an object has a count of zero, the object can be garbage collected (i.e., deleted). FF 5. While Venners describes references that are associated with “any other object or root” (FF 3), and the Examiner finds that “any other object or root” corresponds to the claimed user, the Examiner does not offer a meaningful explanation as to how Venners’ description of “any other object or root” can be considered a user. Furthermore, the Examiner does not offer a meaningful explanation as to how “any other object or root” is capable of deleting one or more references associated with the “any other object or root”.

For all these reasons, we do not sustain the rejection of claims 1-3, 5, 6, 16-18, 20, 21, 30 and 31 as obvious over Venners, Meyerzon and Birrell. Since claims 7 and 22 ultimately depend from claims 1 and 16, we do not

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sustain the rejection of claims 7 and 22 as obvious over Venners, Meyerzon, Birrell and Hug for the same reasons.

DECISION

We REVERSE the rejection of claims 1-3, 5, 6, 16-18, 20, 21, 30 and 31 under 35 U.S.C. § 103(a) as unpatentable over Venners, Meyerzon and Birrell.

We REVERSE the rejection of claims 7 and 22 under 35 U.S.C. § 103(a) as unpatentable over Venners, Meyerzon, Birrell and Hug.

REVERSED

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